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SUPREME COURT, U. S.

No. 71-1319

In the Supreme Court of the United States

OCTOBER TERM, 1971.

In re PETER S. SARELAS,

AN ATTORNEY,

Petitioner.

REPLY BRIEF FOR PETITIONER

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The "Brief In Opposition To The Petition For Writ Of Certiorari", is not responsive. It contains their customary inaccuracies and misstatements of fact, apparent in the Record. Their pattern of behavior is specified in a Resolution in the House of Representatives of the Seventy-Seventh General Assembly of the State of Illinois (App. "E", pp. 20-22, Petitioner's Brief), to revoke the certificate of incorporation of The Chicago Bar Association, "because such Association does not perform the purpose for which incorporated and it is not needed as a restaurant, a library or as a producer of theatrical events; because it does not protect the public, promote the administration of justice through law, nor maintain the honor and dignity of the profession of the law through sound surveillance, investigation and discipline of its members;" (App. pp. 21-22).

And to revoke the appointment of the Chicago Bar Association's Board of Managers and its Committee on Grievances as Commissioners of the Supreme Court of Illinois, "for purposes of disciplining the members of the legal profession because of their flagrant failure to perform as such Commissioners;" (App. p. 22).

Their wrongs are specified in the Resolution (App. pp. 20-21), as follows:

"WHEREAS, The Chicago Bar Association does not protect the public nor the legal profession in that, among other things:

"1. It fails to effectively police the profession of the law;

"2. It is grossly inept in purifying the public profession of the law by not causing, as it should, the disbarment or censure of unethical practitioners of the profession;

"3. It is inexcusably dilatory in clearing attorneys who might be falsely charged with an unethical practice;

"4. It failed to respond to Chief John S. Judge Boyle's list of attorneys who have an unusual amount of litigation;

"5. It does not properly treat firm names where some of the partners are deceased; and

"6. It has one standard of justice for members of large law firms and another standard for individual practitioners or members of small firms or ethnic groups;".

In the instant matter, petitioner was victimized as a scapegoat for their misdeeds, and was punished, without a signed and verified complaint, or a signed complaint, required and specified by Section 751(b), Chapter 110A, Illinois Revised Statutes, 1967-1969, quoted on page 6 of the Petition; without a complainant or any witness having appeared to testify and confront the petitioner; and without evidence. (See Chronology of the Proceedings in Petition, pages 11-24, p. 36, 2nd, 3rd and 4th pars., citing references to Record.

Petitioner's repeated demands to be furnished the names of witnesses, if any, and a list of documents proposed to be offered as evidence, were denied. (Petition, page 20, par. (p), citing references to Record).

Petitioner was denied the basic right to respond to the statements of the prosecutor attorney, John W. Schelthoff. A chairman commanded: "You have no right unless the Commissioners say you have a right." (Petition, p. 34, 2nd par.; p. 59, 1st par., citing references to Record).

It was admitted during the first session of proceedings on October 6, 1966, that they had no witnesses. (Petition, p. 34, 1st par., citing reference to Record).

On November 10, 1966, during the second session, the prosecutor attorney stated that the complainant rests. (Petition, p. 34, 1st par., citing reference to Record).

After stating on October 6, 1966, that they had no witnesses; and that the complainant rested on November 10, 1966, they convened a third illegal ex-parte session on February 1st, 1968. Lester Asher, Chairman, stated: "The case is therefore closed." (Petition, p. 34, 1st par., citing reference to Record). And in Vol. I, page 1, of Record, it is stated: "February 1, 1968. Proofs closed".

On April 24, 1969, a fourth illegal session was convened. Only Lester Asher and Morris J. Wexler were present, each declaring that he was "chairman".

The prosecutor attorney was allowed to offer as "evidence", copies of complaints, in petitioner's private litigation, past and pending, without service of copies with the required Notice upon petitioner; without a complaint; without a complainant or any witness to testify and to confront the petitioner; and without evidence. (Petition, pages 18-19, par. (n)).

Lester Asher and Morris J. Wexler, the only commissioners present and each declaring to be "chairman", ordered another session for May 8, 1969, the fifth one, over petitioner's objections. In Volume I of the Record, page 1, it is stated that the "Hearings Held" were only "October 6, 1966; November 10, 1966; February 1, 1968 Proofs Closed." (Petition, p. 19, 3rd par.).

On May 8, 1969, which was 2 years, 5 months and 29 days after November 10, 1966, when the prosecutor attorney stated that the complainant rests, Lester Asher, chairman, over petitioner's objections, commanded that copies of complaints in petitioner's private litigation, past and pending, are received as "evidence" as of April 24, 1969. (Petition, pp. 19-20, par. (o), citing references to Record).

On April 2nd, 1970, during the Sixth Session, it was admitted by the prosecutor attorney that there was no evidence; that the "evidence" consisted of "all of the complaints and actions that were filed" by petitioner "over the years". (Petition, p. 34, 1st par., citing reference to Record).

In the Opinion (App. "A", p. 9, 2nd par.), it is stated that the "illustrations" recited in the Opinion, are from the "findings" of the Committee on Grievances, "notwithstanding the respondent's objections to these findings". It is also stated that there was no evidence, and that the evidence consisted of the various complaints filed by petitioner, "and the adjudicative dispositions of them." (App. "A", p. 1, 2nd par.).

It is therefore plain and obvious that the Opinion is not a judicial determination, and violates the Due Process and Equal Protection of the Laws Clause of the Fourteenth Amendment to the Federal Constitution and it ignores and contravenes, Article VI, 2nd and 3rd Clauses of the Constitution of the United States, quoted in Petition, page 3, par. A. (See authorities cited and quoted in Petition on pages 62-66 and on pages 58-62).

The Opinion also ignores and contravenes Section 61(c)-(3) of Chapter 110A, Illinois Revised Statutes, 1970 Supplement, 1971, quoted in the Petition, p. 7, par. P, which states:

> "It is the duty of all judges to support the Federal and applicable State constitutions; in doing so, they should fearlessly observe and apply fundamental limitations and guarantees."

The Opinion, (App. "A", p. 13, 1st par., lines 2-3), states:

> "* * * we note that the record contains no charge or evidence of any other type of professional misconduct." (Petition, App. "A", p. 13, 1st par., lines 2-3),

The behavior pattern of the persons asserting that they are commissioners, clearly indicates that they were interfering and obstructing justice in petitioner's past and pending litigation.

Petitioner's right of equal access to courts on his own behalf, to prevent and redress wrongs and to enforce rights, and petitioner's equal right to the full and equal benefit of all laws and judicial proceedings for the security of person and property, are protected by the Due Process and Equal Protection of the Laws Clauses of the Fourteenth Amendment to the Federal Constitution. (See cited authorities in Petition, page 58).

Petitioner's equal right not to have his pending litigation interfered with and not to subject it to obstruction of justice techniques, is also protected by the Due Process and Equal Protection of the Law Clauses of the Fourteenth Amendment.

Petitioner's right to follow his profession as a lawyer, is a property right protected by the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and the Illinois Supreme Court cannot exclude the petitioner from the practice of law in a manner or for reasons that contravene the Due Process and Equal Protection of the Laws. (See cited and quoted authorities in Petition, pages 60-66).

Due Process and the Equal Protection of the Laws were denied to the Petitioner. (See Chronology of the Proceedings, in Petition, pages 11-24, page 36, 2nd, 3rd and 4th pars., citing references to Record).

CONCLUSION

For all of the reasons stated in the Petition and in this Reply Brief for Petitioner, it is respectfully submitted that the Petition for Writ of Certiorari should be granted.

Respectfully submitted,

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